

**TESTIMONY SUBMITTED REGARDING CONNECTICUT SENATE BILL 13**

**COMMITTEE on INSURANCE and REAL ESTATE**

**Submitted by:**

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Mister Chairmen, and members of the Committee, my name is Andrew Friedell and I am Director of Government Affairs for Medco Health Solutions, Inc., which is a leading health care company that is advancing the practice of pharmacy and serving the needs of approximately 65 million people. I would like to thank you for this opportunity to testify today regarding our opposition to Senate Bill 13. This bill will prohibit a health plan in Connecticut from encouraging its members to choose a lower cost pharmacy and will thus significantly increase the cost of prescription drug care for patients and payors in the state of Connecticut.

Medco provides clinically driven pharmacy services designed to improve the quality of care and lower total health care costs for private and public employers, health plans, labor unions, government agencies of all sizes, and for individuals served by Medicare Part D Prescription Drug Plans. About one third of the companies on the Fortune 500 list are Medco clients.

Medco provides drug benefits to roughly 18 percent of the Connecticut population. We mail approximately 990,000 prescriptions to state residents annually and we also operate a specialty pharmacy in Vernon, Connecticut.

As you can imagine, many of our clients are struggling to stretch limited resources into a meaningful drug benefit for their members or employees. Therefore, they look to Medco for solutions to help maintain the affordability of their prescription drug costs. Mail service pharmacy is one of the most valuable cost-saving tools available to a plan. Because the drug benefit is often something that our clients voluntarily provide, their ability to take advantage of cost-saving strategies like mail service pharmacy can frequently be the difference in determining whether they can continue to offer these benefits to their members or employees.

## Evidence on the Value of Mail Service Pharmacy:

There is a growing body of evidence that mail service pharmacy is a more efficient and cost effective alternative for patients on maintenance medications.

- In a study that explored mail service pharmacies and PBM ownership, the Federal Trade Commission (FTC) found that retail prices were higher than mail prices for a common basket of drugs; that “Plan sponsors often secured more favorable pricing for mail dispensing than for retail;” and that most plans paid no dispensing or shipping fees to the PBM-owned mail service pharmacy.
- This same FTC study also determined that generic drug prices for 30-day scripts were 23.9% higher at retail than at the PBM-owned mail pharmacy and single-source brand prices were 13.9% higher.<sup>1</sup>
- A study commissioned by the U.S. Department of Health and Human Services found that prescriptions dispensed from a mail service pharmacy “cost six to eight percent less than if the prescriptions are filled through retail pharmacies.”<sup>2</sup>
- A study conducted by the Maryland Health Care Commission found that if all 90-day scripts dispensed to state residents were filled at mail, consumers would save about \$16 million annually and that it would reduce total Maryland consumer spending on prescription drugs by about 2 to 6 percent.<sup>3</sup>
- A study conducted by the U.S. General Accounting Office (GAO) found that at mail, PBMs provide plans with savings of about 27% and 53% for brand and generic drugs, respectively over the retail prices paid by patients without third-party coverage.
- This same GAO study also found that while mail service typically lowers an enrollee’s out-of-pocket costs, in their analysis mail also generated cost savings that reduced the plans’ costs and helped to lessen rising premiums.<sup>4</sup>

There is also evidence suggesting that mail service pharmacies can offer significantly higher quality care to the patients:

- A study conducted by researchers at Auburn University and published in 2003 in the *Journal of the American Pharmaceutical Association* (generally considered to be the benchmark study on retail dispensing accuracy), found an error rate of roughly 1.72% -- or approximately one error for every 58 scripts.<sup>5</sup> In this study, the authors

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<sup>1</sup> Federal Trade Commission Report: *Pharmacy Benefit Managers: Ownership of Mail Order Pharmacies*; (August 2005). <http://www.ftc.gov/reports/pharmbenefit05/050906pharmbenefitrpt.pdf> (last accessed 10/3/2007)

<sup>2</sup> U.S. HHS Report: “*Identification and Description of Industry Best Practices to Manage the Costs of Prescription Drugs*.” (11/11/2005) (p. 47 and 58) <http://aspe.hhs.gov/sp/cost/cost.pdf> (Last accessed on 10/3/2007)

<sup>3</sup> Maryland Healthcare Commission Report: *Mail-Order Purchase of Maintenance Drugs: Impact on Consumers, Payers, and Retail Pharmacies*, (12/23/2005)

<sup>4</sup> GAO Report: *Federal Employees’ Health Benefits: Effects of Using Pharmacy Benefit Managers on Health Plans, Enrollees, and Pharmacies* (1/2003). <http://www.gao.gov/new.items/d03196.pdf> (last accessed 10/3/2007)

<sup>5</sup> Flynn EA et al. *National Observational Study of Prescription Dispensing Accuracy and Safety in 50 Pharmacies*. *JAPhA* Volume 43, No. 2, pp 191-200, at 196, March/April 2003.

concluded that "dispensing errors are a problem on a national level" in the retail setting.

- The 11/2005 issue of *Pharmacotherapy* published a study that looked at dispensing accuracy at mail -- based on the same research design that the Auburn researchers used to measure the retail setting. This study found that a highly automated mail service pharmacy achieved dispensing accuracy rates of less than one in every 1,000 prescriptions (0.075%). This equates to an error rate that is roughly 23 times better than those seen in the benchmark study of retail pharmacy dispensing error rates.<sup>6</sup>
- In June 2010, The Joint Commission, a leading independent standards setting and accrediting body in healthcare, awarded the Medco Pharmacy its Gold Seal of Approval™ for Full Standards Compliance in Home Care - Pharmacy Dispensing Services. The recognition applies to all services offered to clients and health plan members by Medco's dispensing and call center pharmacies. Earning the Gold Seal of Approval places Medco among the leading organizations in this category to receive accreditation with no additional recommendations for further improvement.
- In 2010 Medco helped patients close 2,303,941 gaps in care which can include deviations in accepted treatment protocols and lapses in patient medication adherence. Closing gaps in care protects patient health and helps payors eliminate avoidable healthcare costs.

In addition, prescription drug spending has been the one bright spot among health care cost trends over the past few years and there is considerable evidence that increased use of lower cost mail service pharmacy is contributing to that positive trend. For example, the Centers for Medicare and Medicaid Services (CMS), which publishes its National Health Spending estimates each year in *Health Affairs*, began commenting several years ago on the deceleration in the rate of growth for prescription drug costs. Last year, they announced that growth in prescription drug spending hit a 47-year low of 3.2% (below hospital spending which increased 4.5% and physician office and clinic visit spending which increased 5.0%).<sup>7</sup> As recently as 2006, CMS attributed this encouraging pattern to "a shift toward greater mail-order dispensing," among other factors.<sup>8</sup>

Those numbers from CMS confirm what we see in the data from our own clients. The drug trend or year-over-year rate of increase for Medco clients in 2009 was 3.7 percent. To underscore the important role that mail plays in this equation, we looked at the experience of those clients with higher utilization of mail service pharmacy. Those clients where over 50 percent of all prescriptions (based on the total days supply) were dispensed at mail saw virtually no increase in their drug trend (0.1% growth). While

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<sup>6</sup> Teagarden et al; "Dispensing Error Rate in a Highly Automated Mail-Service Pharmacy Practice," *Pharmacotherapy*; 2005;25(11):1629-1635), 11/2005 edition. This study reviewed prescriptions dispensed through Medco's mail service pharmacies.

<sup>7</sup> CMS report by Micah Hartman, Anne Martin, Olivia Nuccio, Aaron Catlin, and the National Health Expenditure Accounts Team. *Health Spending Growth At A Historic Low In 2008*. (*Health Affairs*, 29, no. 1 (2010): 147-155). Available at: <http://content.healthaffairs.org/cgi/content/full/29/1/147> (last accessed 1/8/2010).

<sup>8</sup> CMS report by Cynthia Smith, Cathy Cowan, Stephen Heffler, Aaron Catlin the National Health Accounts Team. *National Health Spending in 2004: Recent Slowdown Led by Prescription Drug Spending*. (*Health Affairs*, January/February, 2006, p.186)

clients with less than 50% mail-order penetration experienced a markedly higher trend increase rate of 5.3%.<sup>9</sup>

### **Potential Impact of SB13:**

SB13 would impose new restrictions on health plans in the state of Connecticut to prohibit their ability to offer incentives that encourage the use of more cost effective mail service pharmacies. Specifically, Sections 2 and 3 of the bill include language prohibiting a plan from structuring its benefit offering in any way that encourages a patient to select a particular pharmacy by offering incentives such as a lower co-pay or a longer days supply of medication.

Considering the fiscal challenges faced by employers who offer prescription drug coverage, it makes sense that plans should be able to reward those patients who make better economic decisions by offering them more attractive co-payment or coinsurance terms or a longer days supply of medications. Yet SB 13 prohibits plans from sharing with their members any of the savings generated through the use of mail service pharmacies. This makes no sense. Why would the state prohibit health plans from giving the consumer a break if they are willing to choose a lower cost pharmacy?

Supporters of legislation similar to SB 13 have argued that such terms are needed in order to create a "level playing field." This argument assumes that prices must be equal among competitors in order for the playing field to be level. Every healthy marketplace has a range of competitors who compete with one another at different prices. That range of prices is the playing field. Legislating price equality among competitors would distort or eliminate, not level the playing field.

It is also important to point out that because state laws of this sort apply only to fully-insured plans in the state and not to those self-insured plans that are subject to federal rules, SB 13 will disproportionately affect those smaller employers who typically do not have the resources to self-insure. These are the same employers who not only drive job creation but who are also most vulnerable to added health care costs of the sort that would be levied by this bill. At the same time, numerous studies, including a 2003 Kaiser Family Foundation study, have found that employer-based health plans in general are increasingly shifting costs to their members.—Notably, deductibles and co-payments are on the rise. SB 13 will accelerate this problem by adding costs for plans and by removing a lower cost alternative for patients.

In summary, we believe that every benefit provider should be able to create health benefits based on their own needs and values. At a time when coverage is eroding, when overall healthcare costs are going up and when employees and retirees' out-of-pocket costs are on the rise, employers need support, not shackles, in designing their drug benefits. I appreciate the opportunity to submit our concerns with this legislation. I look forward to answering any questions you may have on my testimony.

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<sup>9</sup> Medco 2010 Drug Trend Report.